



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

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Order Instituting Rulemaking to Implement the)
Commission's Procurement Incentive Framework)
and to Examine the Integration of Greenhouse)
Gas Emission Standards into Procurement)
Policies.)
_____)

Rulemaking 06-04-009
(Filed April 13, 2006)

REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
REGARDING JOINT CALIFORNIA PUBLIC UTILITIES COMMISSION AND
CALIFORNIA ENERGY COMMISSION STAFF PROPOSAL FOR AN ELECTRICITY
RETAIL PROVIDER GHG REPORTING PROTOCOL

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Dated: July 10, 2007

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In accordance with the June 12, 2007 Administrative Law Judges' Ruling Regarding Comments on Staff Reporting Proposal (the "Ruling"), Southern California Edison Company ("SCE") respectfully submits these reply comments on the Joint California Public Utilities Commission ("CPUC") and California Energy Commission ("CEC") Staff Proposal for an Electricity Retail Provider GHG Reporting Protocol ("Staff Proposal").

I.

INTRODUCTION

The Staff Proposal's reporting protocol is premised on the assumption that there will be a load-based cap on greenhouse gas ("GHG") emissions for the electricity sector in California, and states that the "issue of whether a load-based cap is the appropriate approach will be addressed elsewhere in the proceeding."¹ As SCE discussed in its opening comments, however, the Staff

¹ Staff Proposal at 1 n.1.

Proposal's reporting protocol is inextricably intertwined with the load-based structure that underlies its reporting and accounting rules. SCE set forth several of the important disadvantages of a load-based approach in its opening comments. These weaknesses of a load-based approach cannot be separated from the Staff Proposal's load-based reporting protocol.

As an alternative to a load-based approach, SCE's opening comments recommended the First Seller approach endorsed by the Market Advisory Committee ("MAC") as a better option. SCE's opening comments explained why the First Seller methodology is superior to a load-based one. SCE suggested that the CPUC and the CEC carefully consider the alternative of the First Seller approach before recommending a load-based reporting protocol to the California Air Resources Board ("CARB"). Many of the other parties that commented on the Staff Proposal also supported the consideration of alternative approaches like the First Seller approach. Based on these comments, the Commissions should fully and thoroughly consider the First Seller approach before recommending any reporting protocol to CARB.

Furthermore, rather than making the adjustments to the default emissions factors used in the Staff Proposal suggested by the California Independent System Operator ("CAISO") and Calpine Corporation ("Calpine") to correct alleged inaccuracies or unintended consequences of the Staff Proposal's load-based protocol, the adoption of the First Seller approach would greatly reduce the need for such default emissions factors because it would rely on *actual* emissions for all in-state generating facilities and on *actual* transactions reported by power importers.²

² As recently articulated by SCE in its comments on CARB's Draft Regulatory Concepts for Mandatory Reporting of GHGs for the Power/Utilities Sector, CARB should require all entities who import power into California to report the total amount of imported power per year, as well as the specific generating facility, and when not otherwise available, the Western Energy Coordinating Council ("WECC") control area, from which all import transactions were sourced. This information, along with CARB's proposed repository of combustion emissions data of out-of-state facilities and the CEC's proposed marginal emission rate methodology applied to individual WECC control areas, would allow CARB to calculate GHG emissions for such imported power transactions. Although this approach would require some estimating of emissions for imports, if the imported power is "sourced" from a control area and not a specific out-of-state facility, the resulting accuracy would still be far superior than under the Staff Proposal's reporting protocol.

II.

THE CPUC AND THE CEC SHOULD CONSIDER THE FIRST SELLER APPROACH FULLY BEFORE RECOMMENDING A GHG REPORTING PROTOCOL

As SCE explained in detail in its opening comments, there are unavoidable problems with the Staff Proposal’s load-based reporting protocol and with the load-based cap structure that the Staff Proposal assumes will be implemented in California. The load-based reporting protocol proposed in the Staff Proposal fails to satisfy many of the staff’s own criteria for assessing the success of an emissions reporting protocol, including accuracy, simplicity, transparency, minimization of unintended consequences and expandability.

As explained in SCE’s opening comments, SCE recommends that the CPUC and the CEC pursue the First Seller approach recommended by the MAC. The First Seller approach:

- Provides far better accuracy in reporting than a load-based approach;
- Relies far less on estimates and assumptions about actual emissions;
- Is more compatible with potential future regional and/or national GHG programs;
- Does not distort the electricity market or interfere with the intended operation of the CAISO’s Market Redesign and Technology Upgrade (“MRTU”);
- Is no more susceptible to the problems of leakage than a load-based approach; and
- Is significantly less susceptible to the problems of contract shuffling and gaming than a load-based approach, while remaining consistent with the goals and requirements of Assembly Bill 32 (“AB 32”).

Several of the parties that commented on the Staff Proposal expressed their support for alternative approaches like the First Seller approach or for considering such alternatives. The Alliance for Retail Energy Markets (“AReM”) “believes that the ‘first seller’ approach is preferable and will better meet the criteria against which the CEC and CPUC are evaluating various proposed reporting protocols—accuracy, consistency, simplicity, transparency,

minimization of unintended consequences, setting the appropriate policy signals, and expandability.”³ AReM also recommend a joint workshop on the topic.⁴ Pacific Gas and Electric Company (“PG&E”) asserted that the Staff Proposal “can be significantly simplified and improved by applying the GHG reporting requirements directly to ‘first sellers’ of unspecified power generated inside and outside the State, rather than to retail providers who only have an indirect relationship with the sources of such unspecified emissions.”⁵ Morgan Stanley Capital Group Inc. (“MSCG”) expressed its support for a source-based system and urged the CPUC and the CEC “to avoid the premature adoption of any GHG market design.”⁶

Furthermore, Environmental Defense asserted that:

In light of our belief that precise emissions data is a crucial component to an effective reporting protocol, we are currently reviewing whether a first seller approach could better facilitate this goal. We further note that it is worth considering whether a first seller approach could more effectively facilitate any future integration of a California-based reporting system into a regional or national system.⁷

The Energy Producers and Users Coalition (“EPUC”) and the Cogeneration Association of California (“CAC”) stated that they had previously endorsed a source-based system and reasoned that “[d]eveloping a reporting protocol first should not be allowed to foreclose some alternatives in the later development of a carbon mitigation strategy.”⁸ Finally, the Natural Resources Defense Counsel (“NRDC”) and the Union of Concerned Scientists (“UCS”) stated that they were looking forward to an August workshop on the First Seller approach to address the many questions the parties have about the First Seller approach.⁹ The NRDC and UCS noted that “the Commissions plan to issue a proposed decision on reporting requirements in mid-August 2007, which will likely come before the August 21 planned workshop on the first-seller

³ AReM Comments at 2.

⁴ *Id.* at 8.

⁵ PG&E Comments at 11-12.

⁶ MSCG Comments at 1-2, 11-12.

⁷ Environmental Defense Comments at 6.

⁸ EPUC/CAC Comments at 2.

⁹ NRDC/UCS Comments at 12.

approach,” and cautioned that “the technical, regulatory, and legal implications of the first seller approach must be more carefully analyzed before possible reporting options under this approach can be explored.”¹⁰

Given the distinct advantages of the First Seller approach over the Staff Proposal’s load-based approach and the interest in alternative approaches identified by such a broad cross section of participants, the Commissions should give careful consideration to the merits of a First Seller-based system before recommending any specific reporting protocol. As noted by NRDC and UCS, it appears that the Commissions currently plan to issue a proposed decision on a reporting protocol before even conducting a workshop on the First Seller approach. The Commissions should not commit to a load-based reporting protocol that forecloses other systems before fully examining the First Seller approach.

III.

THE FIRST SELLER APPROACH WOULD ADDRESS MANY OF THE PARTIES’ CONCERNS WITH DEFAULT EMISSIONS FACTORS

In its opening comments, the CAISO recommended that the Staff Proposal be modified to adopt default emissions factors of 1,100 lbs/MWh for both the CAISO’s Integrated Forward Market (“IFM”) and real-time market.¹¹ The CAISO expressed concern that assigning different values to the two markets may create an incentive for a retail provider to hold itself out of the IFM and shift its purchases to the real-time market, which would be contrary to the optimal operation of the markets.¹²

The CAISO’s concerns are well-founded. As SCE explained in its opening comments, the load-based reporting protocol proposed in the Staff Proposal, including the default emissions factors for the CAISO’s IFM and real-time markets will create opportunities for generators to

¹⁰ *Id.* at 12-13.

¹¹ CAISO Comments at 3-6.

¹² *Id.*

disguise the real emissions of their resources. It will also interfere with the intended operation of MRTU by, among other things, creating an incentive for market participants to transact in the real-time market instead of the IFM. This would be directly contrary to the objectives of the CAISO in encouraging the use of forward markets like the IFM instead of the real-time market. However, the solution to this problem is not, as proposed by the CAISO, merely to arbitrarily set the same default emissions factor for the IFM and the real-time market. Even if the IFM and the real-time market had the same default emissions factors under the Staff Proposal's reporting protocol, there would still be no reporting of actual GHG emissions of in-state generation purchased in those markets. There would still be a substantial economic incentive for California generators with emissions rates in excess of that default rate to disguise their actual emissions by selling into the markets. In other words, there would be significant incentives to game the system that would frustrate the goals of GHG regulation.

In contrast, under the First Seller approach, obtaining complete accuracy of reporting GHG emissions for in-state generation is straightforward and auditable. The first seller who was reporting the emissions would know and be required to report the exact generator output levels and fuel consumption at each point in time, and would be able to accurately report this information and the associated emissions to the CARB. There would be no need for any default emissions factors for the IFM or real-time market and thus no inaccuracies or unintended market consequences as a result of such factors. Moreover, the opportunities to game the system would be substantially reduced or eliminated.

In its opening comments, Calpine argued that the default emissions factors used in the Staff Proposal are too low.¹³ Calpine asserted that the procurement of power from unspecified sources is inconsistent with long-term GHG reduction goals and argued that, in order to minimize the use of unspecified sources, the default emissions factors used in the Staff Proposal should be increased to represent the highest emitting unit in the region.¹⁴

¹³ Calpine Comments at 2-4.

¹⁴ *Id.*

SCE disagrees with Calpine’s recommendation. As SCE explained in its opening comments, the implementation of MRTU and expiration of load-serving entities’ (“LSEs”) contracts with specified sources will lead to more of the LSEs’ power coming from unspecified sources in future years, not less. Unspecified source transactions have many commercial advantages that are of real value to electricity consumers. Source-specific transactions are usually unit contingent and are much more difficult and time consuming to negotiate than unspecified source transactions. Transmission congestion is also a problem that must be dealt with for source-specific contracts. Unspecified source transactions are usually firm and can be very quickly put in place. They are also much more liquid, thus increasing the potential for lower cost purchases. Unspecified source transactions are an important part of the market that will very likely increase under MRTU in future years.

Implementing Calpine’s suggestion to set default emissions factors based on the highest emitting unit in the region in order to force market participants into source-specific transactions will interfere with the operation of California’s and the WECC’s electric energy commodity markets, including MRTU, and will lead to higher costs for electricity consumers by severely impeding commerce. Under Calpine’s proposal, in order for an LSE to keep its imputed GHG emissions low and underneath that LSE’s load-based cap, it will be forced to contract with specific units and avoid non source-specific transactions and their high levels of imputed GHG emissions. Today, SCE conducts approximately 20,000 electric energy transactions per year to meet the CPUC’s requirement of least-cost dispatch of SCE’s portfolio. Virtually all of these transactions are non source-specific, time-critical transactions¹⁵ conducted in day-ahead and hour-ahead markets to balance SCE’s supply and demand on a least-cost basis. If Calpine’s proposal were adopted, SCE would not be able to conduct these transactions and would not be

¹⁵ By “time-critical,” SCE means the transactions must be put in place quickly due to the volume of transactions required to balance the portfolio, the limited time the market for the required transactions is open, and the fact that the price for any transaction under consideration is highly volatile and will not remain available more than a few minutes at best (the price will certainly not remain open during the time it would take SCE to negotiate an alternative source-specific transaction).

able to achieve least-cost dispatch of its portfolio. Furthermore, Calpine's proposal would severely impede participation in the market of entities, such as financial institutions, that do not own "sources," and therefore cannot easily conduct "source-specific" transactions. As these market participants create liquidity and typically have very high credit ratings, eliminating them or significantly impeding their operations in the market will also make it more difficult and costly for LSEs to transact to achieve least-cost dispatch.

Moreover, Calpine's default emissions factors would be less accurate, not more accurate, than the default emissions factors used in the Staff Proposal. Calpine argued that reporting of emissions must be accurate, but it proposed default emissions factors that clearly do not represent actual emissions. A default emissions factor based on the highest emitting unit in a region would not accurately represent the actual emissions of the underlying generation and could not be fairly used for the assessment of penalties for non-compliance against a regulated entity.

A more appropriate means of addressing Calpine's concern with inaccuracies in the default emissions factors used in the Staff Proposal's reporting protocol would be to implement the First Seller approach. As discussed in SCE's opening comments, the First Seller approach would significantly reduce the use of default emissions factors and lead to more accurate reporting of the actual emissions associated with the electricity used to serve California customers. This more accurate reporting of emissions will serve AB 32's goals of reducing California's GHG emissions better than setting arbitrary and inaccurate default emissions factors with no relation to the actual emissions of the associated electricity.

IV.

CONCLUSION

For the reason stated above, the CPUC and the CEC should adopt SCE's recommendations regarding the Staff Proposal, as set forth herein and in SCE's opening comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) REGARDING JOINT CALIFORNIA PUBLIC UTILITIES COMMISSION AND CALIFORNIA ENERGY COMMISSION STAFF PROPOSAL FOR AN ELECTRICITY RETAIL PROVIDER GHG REPORTING PROTOCOL on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **10th day of July 2007**, at Rosemead, California.

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151 BLUE RAVINE ROAD
FOLSOM, CA 95630
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MRW & ASSOCIATES, INC.
1814 FRANKLIN STREET, SUITE 720
OAKLAND, CA 94612
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CALIFORNIA ENERGY MARKETS
517-B POTRERO AVENUE
SAN FRANCISCO, CA 94110
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